IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.7298 OF 2007

Parle Agro Pvt. Ltd. ..Petitioners

Vs.

Union of India & Ors. ..Respondents

Mr.S.M. Sakhardande, Senior Advocate with Mr. H.G. Dharmadhikari for the Petitioners.
Mr. P.S. Jetly and Hina P. Shah for the Respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 11TH OCTOBER 2007

P.C.

. The Tribunal after considering the order impugned before it by its order dated 16th July, 2007 directed pre-deposit of 50% of the duty demanded and 50% of the penalty. The petitioners being not satisfied applied for modification of the order which was dismissed on 7th September, 2006 and consequently the present petition.

2. In the impugned order of 7th September, 2007 Commissioner Appeals has noted that the petitioners failed to make out strong prima facie case and the contentions advanced will have to be examined at the time of hearing and in that light of the matter the order for pre-deposit to the extent of 50% of duty and penalty was passed. Once there be a power and that power has been exercised it is not for this Court to interfere in the exercise of extra ordinary jurisdiction specially in the case where the Tribunal should normally order deposit and power is conferred to waive

deposit and pass appropriate orders. The Tribunal has applied the well known judicial test of exercise of discretion. Hence no interference called for. Petition dismissed. Time to deposit the amount extended by further period of four weeks from today.

(J.P. DEVADHAR, J.) **(F.I. REBELLO**, J)